



STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR)
AN ORDER AUTHORIZING ADVAMTEL,)
LLC d/b/a PLAN B COMMUNICATIONS,)
INC. TO PROVIDE LOCAL EXCHANGE)
AND EXCHANGE ACCESS)
TELECOMMUNICATIONS SERVICES)

ORDER OF APPROVAL

DOCKET NO. TE00020117

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated February 17, 2000, ADVAMTEL, LLC, d/b/a Plan B Communications, Inc. (Petitioner or Plan B) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange and exchange access telecommunications services throughout the State of New Jersey. Petition at 1. Additionally, Petitioner responded to Staff's questionnaire on June 22, 2000, and provided supplemental financial information by letter dated August 10, 2000.

According to the petition, Plan B was formed under the laws of the State of Delaware on July 2, 1998. Petition at 2, Exhibit 1. Petitioner's corporate offices are located at 246A Industrial Way, Eatontown, NJ 07724. Letter dated August 10, 2000.

Petitioner has submitted copies of its Certificate of Incorporation, Certificate of Authority to Operate in New Jersey as a Foreign Corporation, an illustrative tariff, and financial and technical qualifications information. Petition at 2, 3, Exhibits A, B, D, and E. Petitioner advised that it is currently authorized to provide local telecommunications services in New York and Massachusetts. Petition at 1, 2, Questionnaire at 4. Plan B has not been denied authority to provide telecommunications services in any State. Petition at 2.

Plan B executed an interconnection agreement with Verizon New Jersey, Inc. on April 18, 2000. The interconnection agreement was filed with the Board on August 8, 2000.

In both its petition and June 22, 2000 questionnaire, Petitioner advised that it seeks authority to provide all forms of local exchange service to small business customers throughout New Jersey. Petition at 1.

Petitioner requested waiver of the Board's rules requiring the maintenance of its records according to the Uniform System of Accounts (USOA). Petitioner wishes to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petitioner maintains that keeping its books and records according to USOA would be unduly burdensome.

With regard to its managerial and technical qualifications, Plan B submitted the professional biographies of its key personnel, who, according to Petitioner, are well qualified based on their managerial and technical experience to manage and run Plan B.

Petitioner stated that it has access to the financial capital necessary to conduct its telecommunications operations as demonstrated by the submitted income statements and balance sheets. Petitioner asserted that this information contains extremely sensitive and strategic information that could be used by competitors to determine market share, revenue and other information damaging to Plan B in the marketplace. Petitioner also stated that it has used its best efforts to keep and maintain such information confidential, and due to the sensitive nature of this information has requested that the Board limit access to such information.

Although this Board's Customer Relations Division had not received any complaints regarding Plan B, the Division of Consumer Affairs (DCA) had received three. Details on one of these cases had been misplaced by DCA and Staff was unable to follow up this case. The other two cases involved customers whose telephone service was in New York and who complained in New Jersey because Plan B has its headquarters in New Jersey. Neither of these cases appeared to be a valid slamming complaint. In addition, there were 23 complaints of alleged slamming received by the New York Public Service Commission (PSC), all but two of which have been resolved. Many of these cases were later determined not to be slams. Plan B submitted a formal plan with the PSC to eliminate slamming. In addition to this plan, Petitioner has advised this Board that telemarketing firms will not be used by Plan B in New Jersey.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L., 104-104, 110 Stat. 56, which was codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed the petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and exchange access telecommunications services in New Jersey subject to approval of its tariff and submission of its own pro forma financial statements. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided. In addition, Petitioner is ORDERED to provide a status report on the currently pending complaints in New York and on any other complaints received in New York, Massachusetts and New Jersey six months from the date of this Order. Regarding the Petitioner's request for waiver of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that petitioner maintain its books and records under the USOA. Therefore, the Board APPROVES Petitioner's request for the exemption from maintaining its books and records under the USOA.

With regard to Petitioner's financial information as submitted in its petition, the Board FINDS that the Petitioner has shown good cause, pursuant to N.J.A.C. 1:1-14.1, that this information merits protection from disclosure in order to prevent competitive harm to the Petitioner. Therefore, the Board DIRECTS that the financial information contained in the petition be kept under seal.

DATED: 12/19/00

BOARD OF PUBLIC UTILITIES
BY:

(signed)
HERBERT H. TATE
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
SECRETARY